

transparency of each carrier's imputation of in-region, long distance costs, we require AT&T, Qwest, and Verizon, as a condition of this Order, to include the imputation charges it debits to account 32.5280 in its ARMIS filings, accompanied by an explanatory footnote for each line item identifying the amount imputed.³⁰⁰ This requirement should pose at most a minimal additional burden to the carriers because they already record imputation charges in a subsidiary record account for revenues derived from regulated services treated as nonregulated for federal accounting purposes,³⁰¹ and already must file ARMIS reports.³⁰²

105. We conclude that the requirements set forth above adequately address the commenters' concerns regarding the incentives and ability of the BOCs and BOC independent incumbent LEC affiliates to use their pricing of access services, including special access services, to impede competition in the provision of in-region, long distance services.³⁰³ At the same time, these imputation and access charge requirements should not in any way hamper the BOCs' and their independent incumbent LEC affiliates' ability to compete. Instead, they should give AT&T, Qwest, and Verizon, their access services customers, and the Commission meaningful information for evaluating whether these carriers' imputation and access charge practices and procedures comply with section 272(e)(3) and this Order. We also believe that, in comparison with dominant carrier regulation, these imputation requirements provide a less costly but more effective method of assuring that the BOCs and their independent incumbent LEC affiliates will not discriminate between their own operations and their competitors in the pricing of special access services.

(iii) Low-Volume Usage Plans

106. As discussed above, although we find that Qwest, Verizon, and AT&T generally lack classical market power in the provision of in-region, interstate, long distance services, we are concerned that their customers who make relatively few interstate long distance calls and who do not also subscribe to wireless or broadband Internet access service may have fewer competitive choices among interstate, long distance providers and may not be able to avoid the impact of a price increase by engaging in usage substitution. To address this concern, AT&T and Verizon each have committed for three years to offer a rate plan tailored to these customers' needs.³⁰⁴ We note that, under the *Qwest Section 272 Sunset Forbearance Order*, Qwest committed to freeze for two years the per-minute prices for two calling plans

³⁰⁰ These data values with explanatory footnotes are to be provided in FCC Report 43-01, ARMIS Annual Summary Report, table I, row 1045, columns (b) and (c); FCC Report 43-02, ARMIS USOA Report, table I-1, row 5280, column (b); and in FCC Report 43-03, ARMIS Joint Cost Report, table I, row 5280, columns (b), (d), and (j).

³⁰¹ See 47 C.F.R. § 32.5280(c) (specifying that separate subsidiary record categories be maintained for nonregulated revenues).

³⁰² See, e.g., *ARMIS Order*, 2 FCC Rcd at 5772, para. 22; see also 47 C.F.R. § 43.21.

³⁰³ See, e.g., Legacy MCI FNPRM Comments at 19-23; Legacy MCI FNPRM Reply at 8-12; Ad Hoc Comments at 17-18; Ad Hoc Reply at 5-6. We reject legacy AT&T's and legacy MCI's calls for more intrusive imputation requirements. See, e.g., Legacy MCI FNPRM Reply at 14-16; Legacy AT&T FNPRM Comments at 51, 70 (arguing that the Commission should adopt rules requiring BOCs to impute access costs for each identifiable service offering, including each component in a bundled offering of multiple services, to prevent cross-subsidization). We find that the current regime with narrowly-targeted accounting and pricing safeguards remains adequate to address competitive concerns.

³⁰⁴ See AT&T Aug. 15, 2007 *Ex Parte* at 1-2; Verizon Aug. 21, 2007 *Ex Parte* at 1-2. Specifically, AT&T and Verizon each commit to offer a rate plan under which residential consumers with a local access line may obtain 1+ long distance telecommunications services at a rate of 12 cents per minute with no monthly minimum or monthly recurring charge. AT&T and Verizon both agree to make these rate plans available within 60 days of the effective date of this Order, and continuing for 36 months thereafter. *Id.*

that it currently offers which are tailored to these customers' needs, and to not increase the monthly fee that applies to one of these plans by more than one dollar as a condition of the Commission's forbearance.³⁰⁵

107. We agree with Consumers Union that the availability of such rate plans is important,³⁰⁶ and thus require that AT&T, Qwest, and Verizon adhere to these commitments as a condition of the relief we grant in this Order.³⁰⁷ We take this action pursuant to our authority under section 201 of the Act.³⁰⁸ We find that this condition will help protect against the exercise of any classical market power that Verizon, AT&T, or Qwest may have in relation to customers that make relatively few interstate long distance calls. We also find that this condition provides a more effective and less costly means of protecting against the exercise of such classical market power than would applying dominant carrier regulation to the BOCs' and their independent incumbent LECs' in-region, interstate long distance services.

(iv) Monthly Usage Information

108. We also are concerned that interstate long distance consumers need adequate information regarding their monthly usage in order to make informed choices among alternative long distance calling plans.³⁰⁹ To address this concern, AT&T has committed to provide, for three years, each residential customer who subscribes to a calling plan that establishes a single rate for unlimited wireline local exchange and long distance telecommunications service with the total number of long distance telecommunications service minutes used by that customer each month.³¹⁰ Similarly, Verizon has committed, for three years, to offer monthly long distance usage information to customers who subscribe

³⁰⁵ *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5243-44, para. 71. Specifically, for 24 months after the effective date of the *Qwest Section 272 Sunset Forbearance Order*, Qwest committed to freeze the per minute price of both its *Managed Long Distance Plan* (\$0.18 per minute; no monthly fee; predetermined monthly limit of \$20.00) and its *15 Cent Single Rate Plan* (\$0.15 per minute, monthly fee of \$0.99). In addition, Qwest committed for the same period of time to charge no monthly fee for its *Managed Long Distance Plan* and not to raise the monthly fee for its *15 Cent Single Rate Plan* by more than \$1.00. See *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5243, para. 71 n.204.

³⁰⁶ See Letter from Chris Murray, Senior Counsel, Consumers Union, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 02-112, 06-120 (dated Aug. 17, 2007) (Consumers Union Aug. 17, 2007 *Ex Parte*) (expressing Consumers Union's support for AT&T's "significant" voluntary commitments with respect to low volume users).

³⁰⁷ At a minimum, interexchange carriers must make their rates available to the public upon reasonable request in an easy to understand format and timely manner. See 47 C.F.R. § 42.10(a). An interexchange carrier that maintains a website also must make available its current rates, terms, and conditions for all of its interstate and international services on the website in a timely and easily accessible manner. See 47 C.F.R. § 42.10(b). Further, Consumers Union recommends that the carriers display the low volume plans "prominently" on their websites. Consumers Union Aug. 17, 2007 *Ex Parte*. We expect that AT&T, Qwest, and Verizon will take such steps to ensure that consumers are informed of these plans.

³⁰⁸ 47 U.S.C. § 201(b) (requiring that all charges for interstate or foreign telecommunications services shall be "just and reasonable"); see also 47 U.S.C. § 272(f)(3) (stating that section 272(f) shall not be construed "to limit the authority of the Commission under any other section of this Act to prescribe safeguards consistent with the public interest, convenience, and necessity").

³⁰⁹ We note that Qwest already provides this information to its residential long distance customers, and has committed to continue providing this information for a period of at least two years from the effective date of the *Qwest Section 272 Sunset Forbearance Order*. See *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5244, para. 72.

³¹⁰ See AT&T Aug. 15, 2007 *Ex Parte* at 2. AT&T agrees to make this information available within 60 days of the effective date of this Order.

to wireline interstate, interexchange telecommunications service plans that establish a single rate for unlimited wireline local exchange, intraLATA toll, and 1+ long distance telecommunications service.³¹¹ In addition, in the *Qwest Section 272 Sunset Forbearance Order*, the Commission conditioned its relief on Qwest's commitment to ensure that its subscribers continue to receive in their bills the monthly usage information that they may need to make cost-effective decisions concerning alternative long distance plans. As a condition of the regulatory relief granted in this order, we require AT&T, Verizon, and Qwest to provide such usage information without an additional charge.

c. Advantages of Our New Framework

109. We find that the new regulatory framework adopted in this Order is preferable to the regulatory requirements previously in place for the BOCs and their independent incumbent LEC affiliates. In particular, we find that the new framework imposes significantly fewer costs than the prior regulations. Because the new framework does not involve retail price regulation or tariff filing with respect to in-region interLATA telecommunications services, it also imposes fewer costs than would dominant carrier regulation.³¹² The new framework also does not impose the costs and inefficiencies associated with the full section 272 safeguards, including the costs and inefficiencies from maintaining structural separation between local telephone and long distance operations, operating these services independently, and maintaining duplicate sets of officers, directors, and employees.³¹³ The new framework also does not impose the same constraints on the ability of the BOCs and their independent incumbent LEC affiliates to respond to technological and marketplace developments as do the section 272 and rule 64.1903 safeguards.³¹⁴

110. Further, as discussed above, we find the regulatory safeguards adequately address the limited classical market power concerns, as well as the concerns associated with exclusionary market power. As discussed in our market analysis, although we generally find that the BOCs lack classical market power with regard to in-region, interstate, long distance services, we identify concerns relating to consumers who make relatively few interstate long distance calls.³¹⁵ As discussed above, we find that the low-volume usage plan and monthly usage information requirements are targeted responses to these concerns.³¹⁶ We also find that the continuing legal requirements, including section 251(c) and 271(c)(2)(B) unbundling and sections 272(e)(1) and 272(e)(3), as well as the special access performance metrics and imputation requirements set forth in this Order, adequately address concerns associated with exclusionary market power.³¹⁷ We also find that the improved ability of AT&T, Verizon, and Qwest to develop and deploy innovative interLATA services that meet their customers' needs is a significant benefit associated with the new framework adopted in this Order. We find that customers and competition will benefit from the Commission's elimination of hindrances previously imposed by the section 272 safeguards by allowing AT&T, Verizon, and Qwest to become more effective competitors.

³¹¹ See Verizon Aug. 21, 2007 *Ex Parte* at 2. Verizon agrees to make this service available within 60 days of the effective date of this Order. *Id.* We therefore reject any proposal to provide such usage information as a "subscription service." *Id.*

³¹² See *supra* para. 76.

³¹³ See *supra* para. 82.

³¹⁴ See *supra* para. 83.

³¹⁵ See *supra* paras. 39-48.

³¹⁶ See *supra* parts III.A.4.b(ii), III.A.4.b(iv).

³¹⁷ See *supra* paras. 90-91, 96-105.

111. Finally, in concluding that dominant carrier regulation and structural safeguards no longer are appropriate for AT&T's, Verizon's, and Qwest's in-region, interstate, long distance services, we exercise our "expert policy judgment" with respect to a "subject matter [that] is technical, complex, and dynamic."³¹⁸ We find, in particular, that the section 272 safeguards impose higher costs than the new framework we adopt, but while we find both the section 272 safeguards and the new framework adequate to address our competitive concerns, the relative magnitudes of the benefits of each approach do not lend themselves to precise balancing. Given our expertise and experience with the regulation historically imposed on the BOCs and their independent incumbent LEC affiliates; the evidence of significant competition and evolution in the marketplace for interstate long distance services within the AT&T, Verizon, and Qwest incumbent LEC territories; and our conclusions regarding the adequacy of other safeguards, we find it appropriate to remove hindrances to the BOCs' and their independent incumbent LEC affiliates' becoming more effective competitors in a manner that we believe is administrable and adequately protects customers and competition.

d. Alternative Proposed Safeguards

112. We reject commenters' calls for safeguards in addition to those we adopt above. Specifically, we do not adopt safeguards in this proceeding in response to arguments by legacy AT&T and Working Assets that the BOCs have significant advantages in the marketing of long distance services to residential customers,³¹⁹ because those arguments have either been addressed in prior Commission orders or are better addressed in our pending *Equal Access* proceeding.³²⁰ We also reject legacy MCI's arguments that the BOCs have unfair marketing advantages resulting from their historic local market share and their established business relationships with subscribers that require changes to our do-not-call rules.³²¹ The Commission has previously rejected those arguments.³²² For the same reason, we reject

³¹⁸ *Brand X v. FCC*, 545 U.S. 967, 1002-03 (2005) (quoting *NCTA v. Gulf Power*, 534 U.S. 327, 339 (2001)).

³¹⁹ Legacy AT&T FNPRM Comments at 74-75 (arguing that a BOC, as the incumbent local service provider, has significant advantage over long distance competitors because the BOC may market its long distance services when consumers call to order local telephone service or to add an additional line); Working Assets FNPRM Comments at 4 (same).

³²⁰ The Commission addressed BOC joint marketing of long distance services in an order denying legacy AT&T's formal complaint against Bell Atlantic-NY. *AT&T Corp. v. New York Telephone Company*, File No. EB-00-MD-011, Memorandum Opinion and Order, 15 FCC Rcd 19997, 19999-20003, paras. 7-15 (2000) (*AT&T v. BA-NY Order*). We note that, subsequent to the *AT&T v. BA-NY Order*, legacy AT&T raised these same issues in its comments in the *Equal Access* proceeding. See Legacy AT&T Docket No. 02-39 Comments at 26-31; *Inquiry Concerning a Review of the Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers*, CC Docket No. 02-39, Notice of Inquiry, 17 FCC Rcd 4015 (2002) (*Equal Access NOI*). The Wireline Competition Bureau (Bureau) recently requested that parties refresh the record in the *Equal Access NOI* proceeding. *Parties Asked to Refresh Record Regarding Review of Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers*, CC Docket No. 02-39, Public Notice, 22 FCC Rcd 4553 (WCB 2007). Because the Commission's consideration of Legacy AT&T's arguments in the *Equal Access NOI* is pending, we decline to address those arguments here.

³²¹ Legacy MCI Section 272 FNPRM Comments at 5.

³²² See *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 (2003) (*TCPA Order*). The Commission rejected legacy MCI's arguments for three reasons. First, the Commission noted that with the establishment of the national do-not-call registry, carriers are still permitted to telephone competitors' customers who have not placed their numbers on the national list. Second, the Commission explained that carriers will be able to call their prior and existing customers for 18 months after a previous purchase or transaction to market new products and services, such as local, long distance, or DSL services, as long as those customers have not asked to be placed on that carrier's company-specific, do-not-call list. Finally, the Commission pointed out that, for the remaining consumers with whom common carriers have no established business relationship and who are registered with the national do-not-call list, carriers may (continued....)

commenters' concerns regarding the BOCs' ability to market using customer proprietary network information (CPNI).³²³

113. We also reject certain commenters' suggestion that we should impose safeguards addressing the BOCs' billing and collection practices.³²⁴ In the *Billing and Collection Detariffing Order*, the Commission concluded that billing and collection services provided by LECs are not subject to regulation under Title II of the Act because they are not communications services.³²⁵ The Commission further found that unregulated treatment of LECs' billing and collection services would best serve the interests of the LECs, their subscribers, and their competitors.³²⁶ Commenters do not demonstrate that we should adopt different conclusions in this proceeding. Furthermore, we note that carriers have the option of providing their own billing and collection services as well as using the billing and collection services of companies other than the BOCs.

114. We also decline to impose additional safeguards to address the rates, terms, and conditions under which the BOCs and their independent incumbent LEC affiliates provide access services. Specifically, we decline to address at this time certain parties' concerns regarding AT&T's, Verizon's, and Qwest's special access services rates and regarding growth discounts these carriers have made available to their switched access services customers.³²⁷ We find that existing law and Commission rules and procedures are designed to address such concerns as they arise,³²⁸ and that to the extent that

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market to them using different advertising methods, such as direct mail. Because of the availability of consumers who have not registered for the national do-not-call list, and the 18-month window that enables competitors to contact customers who change from one provider to another, we find that these rules do not confer upon AT&T, Verizon, and Qwest an "unfair" advantage in marketing their services. *Id.* at 14085-86, para. 123.

³²³ See Working Assets FNPRM Comments at 4; Legacy MCI FNPRM Comments at 45-46. The Commission has found that interpreting the Act to impose no additional obligations on the BOCs when they share CPNI with their section 272 affiliates than are imposed by section 222 and the Commission's CPNI rules most reasonably reconciles the goals of section 222 and section 272. *Implementation of the Telecommunications Act of 1996:*

Telecommunications Carriers' Use of Customer Proprietary Information and Other Customer Information, Second Report and Order, 13 FCC Rcd 8061 at paras. 158-169 (1998), *vacated sub nom. U.S. West, Inc. v. FCC*, 182 F.3d 1224 (10th Cir. 1999), *cert. denied*, 530 U.S. 1213 (2000); see also *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Information and Other Customer Information*, CC Docket Nos. 96-115, 96-149, and 00-257, Third Report and Order and Third Further Notice of Proposed Rulemaking, 17 FCC Rcd 14860, 14919, para. 135 (2002) (stating that "[o]ur adoption today of an opt-out customer approval mechanism for the use of CPNI by carriers and their affiliates that provide communications-related services does not affect our prior statutory interpretation regarding the interplay between Sections 222 and 272, nor does it alter our ultimate conclusion that the term 'information' in Section 272(c)(1) does not include CPNI").

³²⁴ See, e.g., Legacy MCI FNPRM Comments at 24; Legacy AT&T FNPRM Comments at 45-46; see also *id.* at Selwyn Decl., pp. 66-67.

³²⁵ *Detariffing of Billing and Collection Services*, CC Docket No. 85-88, Report and Order, 102 FCC 2d 1150, at para. 34 (1986) (*Billing and Collection Detariffing Order*).

³²⁶ *Billing and Collection Detariffing Order*, 102 FCC 2d 1150, at para. 53.

³²⁷ See, e.g., Legacy AT&T FNPRM Comments at 31-33; Legacy AT&T FNPRM Reply at 48-51; Legacy MCI FNPRM Reply at 2 (claiming that additional safeguards to reduce BOCs' special access rates are necessary); Legacy AT&T FNPRM Comments at 38-40 (arguing that the BOCs unlawfully offer discounts on switched access services to carriers, including the BOCs' own affiliates, based on growth in traffic).

³²⁸ For example, carriers have the option of filing a complaint with the Commission if a carrier believes that a tariff contains an unlawful growth discount. See 47 U.S.C. § 208; cf. *BellSouth Telecommunications, Inc. v. FCC*, 469 F.3d 1052 (D.C. Cir. 2006) (vacating and remanding for further proceedings a Commission decision, in a section (continued...))

commenters have other specific concerns, they are better addressed in the context of the broader records in other Commission proceedings.³²⁹

115. Similarly, we find that existing rules and legal protections adequately address commenters' concerns regarding the primary interexchange carrier (PIC) process.³³⁰ We believe that the Commission rules designed to implement fairly the PIC administration process are sufficient to guard against the type of anticompetitive concerns raised by commenters.³³¹ Moreover, as the Commission has observed previously, the Commission's carrier freeze rules place subscribers in control over whether there is a PIC freeze in place on their carrier selection.³³² Carriers are able to use the Commission's section 208 complaint process if they believe that AT&T, Verizon, or Qwest has violated the Act or the Commission's rules.

116. We also are not persuaded that asserted BOC violations of particular section 272 safeguards require that we extend those safeguards, either in particular states or throughout the individual BOC's region.³³³ To the extent the parties expressed concerns regarding the need for safeguards in particular BOC in-region states, we believe that this Order adequately addresses those concerns.³³⁴

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208 complaint proceeding, that certain volume discounts for special access services violated sections 272(c)(1) and 272(e)(3)).

³²⁹ See, e.g., *Special Access Rates for Price Cap Local Exchange Carriers*, WC Docket No. 05-25, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 1994 (2005) (*Special Access Pricing Reform NPRM*) (initiating a rulemaking to establish an appropriate regulatory regime for interstate special access charges once the Coalition for Affordable Local and Long Distance Service (CALLS) plan expires).

³³⁰ See, e.g., Legacy AT&T FNPRM Comments at 7-8, 40, 71 (criticizing BOC implementation of the PIC process; calling for an independent PIC administrator; and seeking the implementation of a PIC administration performance metric); Working Assets FNPRM Comments at 5-6 (criticizing BOC implementation of the PIC process and calling for an independent PIC administrator); Legacy MCI FNPRM Comments at 28-31 (criticizing BOC implementation of the PIC process; calling for an electronic authorization process; and seeking a reduction in the PIC change charge); COMPTTEL NPRM Comments at 11-12 (asserting that the BOCs process PIC changes in a discriminatory manner).

³³¹ Our rules require the LEC to promptly execute, without any unreasonable delay, PIC changes that have been verified by the submitting carrier. See 47 C.F.R. § 64.1120(a)(2). Our rules also state that no LEC shall implement a preferred carrier freeze unless the LEC confirms the subscriber's request to impose a freeze by the subscriber's: (a) written or electronically signed authorization; (b) electronic authorization; or (c) oral authorization through a qualified independent third party. See 47 C.F.R. § 64.1190. The BOC and their independent incumbent LEC affiliates, therefore, are prohibited by our rules from routinely placing PIC freezes on the accounts of customers who select that carrier or its affiliate for long distance service without first getting the proper authorization from the subscriber. Legacy AT&T FNPRM Comments at 40; see also Legacy MCI FNPRM Comments at 28-30.

³³² *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, CC Docket No. 94-129, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996, 16031, para. 76 (2000).

³³³ See, e.g., Legacy AT&T NPRM Comments at 41 (asserting that Verizon violated the Act in New York); Legacy AT&T Kansas and Oklahoma Petition at 10 (asserting violations in Kansas and Oklahoma); Legacy AT&T Massachusetts Petition at 10-11 (alleging violations of the Act by Verizon in Massachusetts); Sprint FNPRM Comments at 9-11 (alleging various violations by legacy SBC, Qwest, and Verizon).

³³⁴ See Legacy AT&T Arkansas and Missouri Petition; Legacy AT&T Massachusetts Petition at 1 (discussing the levels of competition in Massachusetts); Legacy AT&T Kansas and Oklahoma Petition at 5, 7 (discussing the levels of competition in Kansas and Oklahoma); Legacy AT&T Texas Petition at 5, 11-12 (discussing levels of competition in Texas). Commenters in various section 272 sunset proceedings raised arguments about the levels of competition in various states. See, e.g., Texas Commission Reply at 1-2 (Legacy AT&T Texas Petition); Texas (continued....)

Indeed, the arguments the parties present regarding whether we should extend the section 272 safeguards in particular states are closely-related to similar issues raised in the general rulemaking.³³⁵ Thus, the conclusions that we reach in this Order on these issues also apply to the issues raised in arguing against allowing the section 272 safeguards to sunset in individual states. For example, one of the parties' primary arguments against allowing those safeguards to sunset in individual states is that the BOCs have discriminated against their interLATA telecommunications services competitors in the provisioning of special access services.³³⁶ The special access metrics we adopt in this Order address this alleged discrimination far more directly, and at lesser cost, than would extension of the section 272 safeguards.

B. Memorandum Opinion and Order in WC Docket No. 06-120

1. Equal Access Scripting Requirement

a. Overview

117. We now turn to AT&T's petition pursuant to section 10 of the Act for forbearance from application of the equal access scripting requirement (EA Scripting Requirement).³³⁷ The EA Scripting Requirement requires incumbent LECs to inform customers calling to obtain new local exchange service that they may obtain stand-alone long distance service from other carriers, and to read the customers a list of carriers offering long distance service in their area upon request.³³⁸ This requirement originated during the implementation of equal access following divestiture and is preserved by section 251(g) of the Act.³³⁹ For the reasons set forth below, we forbear from application of this requirement to the BOCs, and waive the requirement with respect to their independent incumbent LEC affiliates.

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OAG Reply at 2 (Legacy AT&T Texas Petition).

³³⁵ See, e.g., Sprint Comments at 4 (Legacy AT&T Texas Petition) (arguing that section 272 safeguards should be extended); Sprint NRPM Comments at 6-11 (same); see also, e.g., Texas Commission Reply at 1-2 (Legacy AT&T Texas Petition) (arguing that the Commission should not permit section 272 requirements to sunset in Texas).

³³⁶ See, e.g., Legacy AT&T NPRM Comments at 34-35 (arguing that a biennial audit in New York showed that Verizon's special access performance was discriminatory); *id.* at 41-42 (alleging PIC change violations by Verizon in New York); Sprint Comments (Legacy AT&T Texas Petition) at 15-18 (arguing that a biennial audit of legacy SBC failed to demonstrate compliance with section 272 in Texas); Sprint Reply (Legacy AT&T Texas Petition) at 2-3 (same); Legacy AT&T NPRM Comments at 36-37 (complaining that legacy SBC manipulated the biennial audit process in Texas); Legacy AT&T Reply (Legacy AT&T Texas Petition) at 10 (arguing that a biennial audit showed that legacy SBC gave favorable treatment to DSO, DS1, and DS3 orders from its affiliates); Legacy AT&T NPRM Comments at 36 (same); Texas Commission Comments (Legacy AT&T Texas Petition) at 2 (complaining that legacy SBC met the state performance requirements in only six of the first 31 months following its gaining section 271 authority in Texas).

³³⁷ See AT&T Petition at 1, 4, 37. Appendix A provides a list of commenters on AT&T's Petition. We expressly limit the forbearance we grant here to the EA Scripting Requirement. The remainder of the AT&T Petition is addressed in a companion order that we release today. See *Petition of AT&T Inc. for Forbearance Under 47 U.S.C. § 160(c) with Regard to Certain Dominant Carrier Regulations for In-Region, Interexchange Services*, WC Docket No. 06-120, Memorandum Opinion and Order, FCC 07-160 (rel. Aug. 31, 2007); see also *supra* n. 57.

³³⁸ See *Equal Access Allocation Tariff Order*, 101 FCC 2d at 949-50, para. 40; *Non-Accounting Safeguards Order*, 11 FCC Rcd at 22046, para. 292; *BellSouth South Carolina Order*, 13 FCC Rcd at 667-72, paras. 231-39 (stating that BOCs are permitted to market their own long distance services as long as they offer to read in random order a list of the names and, if requested, telephone number of all available interexchange carriers).

³³⁹ See 47 U.S.C. § 251(g). In general terms, section 251(g) requires continued compliance with equal access and nondiscrimination requirements established prior to the enactment of the Telecommunications Act of 1996 by court order, consent decree, or the Commission until those requirements are explicitly superseded by subsequent Commission action.

118. Section 10 of the Act is an integral part of the “pro-competitive, de-regulatory national framework” established in the Telecommunications Act of 1996.³⁴⁰ Section 10 provides that the Commission shall forbear from applying any provision of the Act, or any of the Commission’s regulations, if the Commission makes certain findings with respect to such provisions or regulations.³⁴¹ Specifically, the Commission is required to forbear from any such provision or regulation if it determines that: (1) enforcement of the provision or regulation is not necessary to ensure the telecommunications carriers’ charges, practices, classifications, or regulations are just, reasonable, and not unjustly or unreasonably discriminatory; (2) enforcement of the provision or regulation is not necessary to protect consumers; and (3) forbearance is consistent with the public interest.³⁴² In making such determinations, the Commission also must consider “whether forbearance from enforcing the provision or regulation will promote competitive market conditions.”³⁴³ We conclude below that continued application of the EA Scripting Requirement to the BOCs and their independent incumbent LEC affiliates is no longer justified. We thus find that forbearance from application of this requirement to the BOCs satisfies the requirements for forbearance in section 10 of the Act, and that waiver of these requirements is appropriate for their independent incumbent LEC affiliates.

b. Discussion

119. Section 10(a)(1) of the Act requires that we consider whether the EA Scripting Requirement is “necessary to ensure that the charges, practices, and classifications, or regulations by, for, or in connection with [these carriers’ long distance telecommunications services] are just and reasonable and are not unjustly or unreasonably discriminatory.”³⁴⁴

120. The EA Scripting Requirement was designed to foster fair competition in the provision of stand-alone long distance service at a time when competition in the provision of stand-alone long distance services was nascent and there was little, if any, competition in the provision of local exchange service.³⁴⁵ Since that time, market conditions have changed substantially, greatly reducing the benefits of the EA Scripting Requirement.

121. First, there is significant evidence that the stand-alone long distance market is becoming a fringe market.³⁴⁶ In particular, the stand-alone long distance competition that the EA Scripting Requirement was designed to protect has largely given way to competition between service bundles that include both local exchange and long distance service or “any distance” minutes that can be used for both local exchange and long distance calling.³⁴⁷ For example, service bundles are increasingly available from cable operators and interconnected VoIP providers.³⁴⁸ Wireless telephone subscribers also regularly use

³⁴⁰ Telecommunications Act of 1996, Pub. Law No. 104-104, 110 Stat. 56 (1996); *see also* Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113.

³⁴¹ 47 U.S.C. § 160(a).

³⁴² 47 U.S.C. § 160(a)(1)-(3).

³⁴³ 47 U.S.C. § 160(b).

³⁴⁴ 47 U.S.C. § 160(a)(1).

³⁴⁵ *See* AT&T Petition at 37; Verizon Comments, WC Docket No. 06-120, at 7.

³⁴⁶ *See SBC/AT&T Order*, 20 FCC Rcd at 18342, para. 91; *Verizon/MCI Order*, 20 FCC Rcd at 18483, para. 92; *AT&T/BellSouth Order*, 22 FCC Rcd at 5715-16, para. 97.

³⁴⁷ *See* AT&T Comments, WC Docket No. 06-120, at 37; ACS Comments, WC Docket No. 06-120, at 3-4; Verizon Comments, WC Docket No. 06-120, at 2-3, 7; *see also supra* paras. 23-27; *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5217-5220, paras. 16-20.

³⁴⁸ *See supra* para. 27 & n.88.

their "any distance" minutes for long distance calling.³⁴⁹ Indeed, the entity whose market position was the original focus of the EA Scripting Requirement, AT&T:³⁵⁰ (1) no longer is an independent interexchange carrier competing primarily in the stand-alone long distance market;³⁵¹ (2) actually had started to "harvest" stand-alone long distance customers by increasing rates prior to merging with a BOC;³⁵² and (3) now, as a BOC and incumbent LEC, apparently encourages consumers to subscribe to a local and long distance service bundle rather than a stand-alone long distance product.³⁵³

122. Second, the minority of consumers that still take stand-alone long distance services now have additional options available for making long distance calls. As discussed above, the majority of residential customers also subscribes to mobile wireless services and can use their buckets of minutes to make long distance calls at zero marginal cost. And all residential customers also have the option of making long distance calls using transaction services, such as prepaid calling cards. These alternative methods of making long distance calls, which were not readily available when the EA Scripting Requirement was adopted, enable residential customers to engage in usage substitution.³⁵⁴ Despite the development of these competitive alternatives, the EA Scripting Requirement focuses solely on alternative presubscribed wireline long distance providers. Instead of increasing consumer awareness of competitive alternatives, we find that the artificially narrow focus of the EA Scripting Requirement may, in fact, confuse or mislead consumers and cause them not to investigate alternative means of making long distance calls. We further find that competition for stand-alone long distance services would function better absent the potential marketplace-distorting effects of the current EA scripting requirement. As previously found by the Commission, "competition is the most effective means of ensuring that the charges, practices, classifications, and regulations . . . are just and reasonable, and not unjustly or unreasonably discriminatory."³⁵⁵ Accordingly, we conclude that the first prong of the section 10 forbearance test is satisfied.

123. Section 10(a)(2) of the Act requires that we determine whether the EA Scripting Requirement is "necessary for the protection of consumers."³⁵⁶ As explained above, consumers have significant competitive alternatives available to them in the stand-alone long distance market, as well as

³⁴⁹ See *id.* As a result of these marketplace changes, legacy AT&T stopped marketing stand-alone long distance services to residential customers a number of years ago, and MCI reduced its marketing of such services. See *SBC/AT&T Order*, 20 FCC Rcd at 18342, para. 91; *Verizon/MCI Order*, 20 FCC Rcd at 18483, para. 92; *AT&T/BellSouth Order*, 22 FCC Rcd at 5715-16, para. 97.

³⁵⁰ See *Equal Access Allocation Tariff Order*, 101 FCC 2d at 935, 949-50, paras. 1, 40.

³⁵¹ See *SBC/AT&T Order*, 20 FCC Rcd at 18291-92, paras. 1-2.

³⁵² See *SBC/AT&T Order*, 20 FCC Rcd at 18348, para. 103 & n.313.

³⁵³ See *SBC/AT&T Order*, 20 FCC Rcd at 18345, para. 96 & n.297; *AT&T Petition* at 37.

³⁵⁴ See *SBC/AT&T Order*, 20 FCC Rcd at 18342-44, paras. 91-94; *Verizon/MCI Order*, 20 FCC Rcd at 18483-85, paras. 92-95; *AT&T/BellSouth Order*, 22 FCC Rcd at 5715-17, paras. 97-100; see also *AT&T Petition* at 9.

³⁵⁵ *Petition of US West Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance*, *Petition of US West Communications, Inc. for Forbearance*, CC Docket No. 97-172; *Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, Memorandum Opinion and Order, 14 FCC Rcd 16252, 16270, para. 31 (1999). For the reasons stated above, we are not persuaded by commenters that contend that retention of the EA Scripting Requirement is necessary to prevent BOC dominance in the local exchange market from undermining competition in the long distance market. See *COMPTEL Opposition*, WC Docket No. 06-120, at 2, 11-12; *NASUCA Comments*, WC Docket No. 06-120, at 5-6; *NASUCA Reply Comments*, WC Docket No. 06-120, at 2-4; *Sprint Nextel Opposition*, WC Docket No. 06-120, at 6-7; *COMPTEL Reply*, WC Docket No. 06-120, at 3-4.

³⁵⁶ 47 U.S.C. § 160(a)(2).

numerous options for bundled service offerings by, among others, LECs, cable operators and interconnected VoIP providers. As discussed above, however, we find that the current EA Scripting Requirement is likely to distort competition for stand-alone long distance services by focusing solely on one type of competitive alternative. Thus, rather than being necessary for the protection of consumers, we find that the current EA Scripting Requirement could hinder consumers' awareness of competitive alternatives, and we find that the second prong of the section 10 forbearance test is satisfied.

124. Section 10(a)(3) of the Act requires that we determine whether forbearance from enforcement of the EA Scripting Requirement "is consistent with the public interest."³⁵⁷ For the reasons described above, we find that the current EA Scripting Requirement could distort competition and harm consumers, and thus we find that forbearance from that requirement is in the public interest. We also note that the EA Scripting Requirement imposes unnecessary costs on the BOCs.³⁵⁸ Even without the EA Scripting Requirement, the BOCs' local customers will retain the right to obtain long distance service from a long distance carrier other than the BOC. In cases in which customers ask whether they can obtain long distance service from another carrier or select a stand-alone long distance service, the BOCs remain subject to nondiscrimination obligations and must allow customers to exercise their rights under the remaining equal access obligations.³⁵⁹ Accordingly, we conclude that the third prong of the forbearance test is satisfied.

125. Moreover, we find that our analysis of the EA Scripting Requirement would not vary for any of the BOCs. Given that we find the BOCs to be similarly situated with regard to the factors relevant to forbearance from the EA Scripting Requirement, we conclude that it is reasonable to forbear for Verizon and Qwest, as well as for AT&T. Thus, we exercise our authority under section 10(a) to forbear from application of the EA Scripting Requirement to BOCs as a class.³⁶⁰

³⁵⁷ 47 U.S.C. § 160(a)(3).

³⁵⁸ See Verizon Comments, WC Docket No. 06-120, at 7-8; AT&T Petition at 37.

³⁵⁹ See *BellSouth South Carolina Order*, 13 FCC Rcd at 671-72, para. 239.

³⁶⁰ Section 10 provides for forbearance from "applying any regulation or any provision of the Act to a telecommunications carrier or telecommunications service, or *class of telecommunications carriers or telecommunications services*" if the Commission determines that the regulation at issue satisfies section 10's three-prong test. 47 U.S.C. § 160(a) (emphasis added). Because the language in the AT&T Petition is couched in general terms and addresses the effect of this requirement on all of the BOCs, we understand the petition to request relief from the EA Scripting Requirement for all BOCs. See AT&T Petition at 37 ("Finally, the Commission should also forbear from enforcing equal access script requirements[.]" noting that "[t]hose requirements force AT&T and other BOCs to market their services inefficiently . . ."). In addition, Verizon requests that the Commission eliminate the scripting requirement and other equal access requirements for all of the BOCs in this proceeding. See Verizon Comments, WC Docket No. 06-120, at 10. Moreover, opponents to forbearance from the EA Scripting Requirement do not focus on factors that are unique to AT&T. Rather, they raise points that are relevant to the BOCs as a group. See, e.g., NASUCA Comments, WC Docket No. 06-120, at 4-7; COMPTTEL Opposition, WC Docket No. 06-120, at 11-12; NASUCA Reply at 2-5. However, even if the AT&T Petition were viewed more narrowly, as a request only on its own behalf, we believe that it is reasonable to grant AT&T's request for forbearance from the EA Scripting Requirement and extend forbearance to the class as discussed above, given that the reasoning applies equally to all BOCs. We also note that the Commission has previously extended grants of forbearance on its own motion to include similarly situated carriers other than the individual petitioner. See *Petition of Core Communications, Inc. for Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*, Order, WC Docket No. 03-171, 19 FCC Rcd 20179, 20182, 20189, paras. 10, 27 (2004), *petition for review denied*, *In re Core Communications, Inc.*, 455 F.3d 267 (D.C. Cir. 2006); see also *Federal-State Joint Board on Universal Service Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15098-99, para. 16 n.23 (2005).

126. Finally, for similar reasons as indicated above with respect to our waiver of section 64.1903, we find good cause to waive the EA Scripting Requirement for the BOCs' independent incumbent LEC affiliates.³⁶¹ As previously discussed with respect to our waiver of section 64.1903 of the Commission's rules, we find it more sensible for the BOC incumbent LECs and their independent incumbent LEC affiliates to operate pursuant to a uniform regulatory framework, particularly where the independent incumbent LEC operations are a relatively small portion of AT&T's and Verizon's local operations. These special circumstances convince us that it is consistent with the public interest to deviate from the general EA Scripting Requirement.³⁶² We reject, however, ACS's request to broaden AT&T's forbearance request to include all independent incumbent LECs at this time, nor do we find it appropriate to grant a waiver for such carriers here.³⁶³ Given the potential for significant differences in competitive circumstances³⁶⁴ and the lack of record with regard to non-BOC-affiliate, independent incumbent LECs, we do not extend this regulatory relief to these carriers at this time. The Commission is currently considering whether there is a continued need for the EA Scripting Requirement for independent incumbent LECs in a separate proceeding, and the independent incumbent LECs also otherwise remain free to seek relief from the EA Scripting Requirement.³⁶⁵

2. Effective Date

127. Consistent with section 10 of the Act and our rules, the Commission's forbearance and EA Scripting Requirement waiver decisions shall be effective on Friday, August 31, 2007.³⁶⁶ The time for appeal shall run from the release date of this Memorandum Opinion and Order.

IV. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Act Certification

128. Final Regulatory Flexibility Certification. The Regulatory Flexibility Act of 1980, as amended (RFA)³⁶⁷ requires that a regulatory flexibility analysis be prepared for rulemaking proceedings,

³⁶¹ The Commission may waive its rules when good cause is demonstrated. 47 C.F.R. § 1.3; *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (*WAIT Radio*), *cert. denied*, 409 U.S. 1027 (1972). The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *See Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *See WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *See Northeast Cellular*, 897 F.2d at 1166.

³⁶² We thus deny as moot AT&T's request for forbearance from the EA Scripting Requirement to the extent that it extends to its independent incumbent LEC affiliates.

³⁶³ *See* ACS Comments, WC Docket No. 06-120, at 5-8.

³⁶⁴ *See* GCI Reply, WC Docket No. 06-120, at 8-11.

³⁶⁵ *See Equal Access NOI*, 17 FCC Rcd 4015; *Parties Asked to Refresh Record Regarding Review of Equal Access and Nondiscrimination Obligations Applicable to Local Exchange Carriers*, CC Docket No. 02-39, Public Notice, 22 FCC Rcd 4553 (2007).

³⁶⁶ *See* 47 U.S.C. § 160(c) (deeming the petition granted as of the forbearance deadline if the Commission does not deny the petition within the time period specified in the statute); 47 C.F.R. § 1.103(a) ("The Commission may, on its own motion or on motion by any party, designate an effective date that is either earlier or later in time than the date of public notice of such action.").

unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."³⁶⁸ The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."³⁶⁹ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.³⁷⁰ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).³⁷¹ In the context of this Regulatory Flexibility analysis, SBA regulations define small wired telecommunications carriers as entities with fewer than 1,500 employees.³⁷²

129. In this Report and Order, the Commission establishes a new framework to govern the provision of in-region, long distance services by AT&T, Qwest, and Verizon. This new framework replaces burdensome regulation with less intrusive measures that protect important customer interests while allowing AT&T, Qwest, and Verizon to respond to marketplace demands efficiently and effectively. The issues addressed by the Commission in this Report and Order directly affect only the BOCs and their affiliates, which do not qualify as small entities under the RFA. In particular, none of the BOCs is a small entity because each BOC is an affiliate of a Regional Holding Company (RHC), and all of the BOCs or their RHCs have more than 1,500 employees. Insofar as this Report and Order applies to other BOC or RHC affiliates, those affiliates are controlled by the BOCs or by the RHC. Accordingly, they are not "independently owned and operated" entities for purposes of the RFA.

130. Therefore, we certify that the requirements adopted in this Report and Order will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Report and Order including a copy of this final certification, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. § 801(a)(1)(A). In addition, a summary of the Report and Order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the Federal Register.³⁷³

B. Paperwork Reduction Act

131. The actions in this Report and Order include new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information

(Continued from previous page)

³⁶⁷The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

³⁶⁸5 U.S.C. § 605(b).

³⁶⁹5 U.S.C. § 601(6).

³⁷⁰5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

³⁷¹Small Business Act, 15 U.S.C. § 632.

³⁷²*See generally* 13 C.F.R. § 121.201; NAICS code 517110 (changed from 513310 in Oct. 2002).

³⁷³5 U.S.C. § 605(b).

collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198,³⁷⁴ we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

132. We have assessed the effects of the new or modified information collection requirements adopted in this Report and Order and find that they do not affect businesses with fewer than 25 employees.

C. Congressional Review Act

133. The Commission will include a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. § 801(a)(1)(A).

D. Accessible Formats

134. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 or TTY: 202-418-0432.

V. ORDERING CLAUSES

135. Accordingly, IT IS ORDERED that, pursuant to sections 1, 2, 4(i), 4(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r), the Report and Order IS ADOPTED.

136. IT IS FURTHER ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r), the Petition for Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Arkansas and Missouri that Legacy AT&T Corp. filed September 24, 2004 in WC Docket No. 02-112; the Petition for Extension of Section 272 Obligations of Verizon in the State of Massachusetts that Legacy AT&T Corp. filed February 29, 2004 in WC Docket No. 02-112; the Petition for Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the States of Kansas and Oklahoma that Legacy AT&T Corp. filed December 8, 2003 in WC Docket No. 02-112; and the Petition for Extension of Section 272 Obligations of Southwestern Bell Telephone Co. in the State of Texas in WC Docket No. 02-112 that Legacy AT&T Corp. filed April 10, 2003 in WC Docket No. 02-112 ARE DENIED.

137. IT IS FURTHER ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i)-154(j), 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r), that section 64.1903 of the Commission's rules IS WAIVED as applied to Southern New England Telephony Company and the General Telephone Operating Companies, subject to the conditions set forth in this Report and Order.

138. IT IS FURTHER ORDERED, pursuant to sections 1.103(a) and 1.427(b) of the Commission's rules, 47 C.F.R. §§ 1.103(a), 1.427(b), that this Report and Order SHALL BE

³⁷⁴ *See* 44 U.S.C. § 3506(c)(4).

EFFECTIVE 30 days after publication of notice of the Report and Order in the FEDERAL REGISTER, subject to Office of Management and Budget (OMB) approval for new or modified information collection requirements.

139. IT IS FURTHER ORDERED, pursuant to sections 1, 2, 4(i), 4(j), 10, 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154(i), 154(j), 160, 201-204, 214, 220(a), 251, 252, 271, 272, and 303(r) that AT&T's Petition for Forbearance, filed June 2, 2006, IS GRANTED in part, to the extent set forth herein.

140. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 4(j), 201-204, 251(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i)-154(j), 201-204, 251(g), and 303(r), and section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, that the Equal Access Scripting Requirement IS WAIVED as applied to Southern New England Telephone Company and the General Telephone Operating Companies as described in the Memorandum Opinion and Order, effective on August 31, 2007.

141. IT IS FURTHER ORDERED, pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. § 160, and section 1.103(a) of the Commission's rules, 47 C.F.R. § 1.103(a), that the Memorandum Opinion and Order SHALL BE EFFECTIVE on August 31, 2007. Pursuant to sections 1.4 and 1.13 of the Commission's rules, 47 C.F.R. §§ 1.4, 1.13, the time for appeal from that Memorandum Opinion and Order shall run from its release date.

142. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

**Comments to Notice of Proposed Rulemaking
in WC Docket No. 02-112**

Commenter	Abbreviation
Association for Local Telecommunications Services	ALTS
AT&T Corp.	Legacy AT&T
BellSouth Corporation	Legacy BellSouth
The Competitive Telecommunications Association	COMPTEL
Assistant Professor Reza Dibadj, University of Miami School of Business Administration	Dibadj
Focal Communications Corp., Pac-West Telecomm, US LEC Corp.	Focal Communications
MCI	Legacy MCI
Missouri Public Service Commission	Missouri Commission
National Association of State Utility Consumer Advocates	NASUCA
New Jersey Division of the Ratepayer Advocate	NJ Ratepayer
New York State Department of Public Service	NY Dept. Public Service
Pennsylvania Public Utility Commission	Pennsylvania Commission
Public Service Commission of Wisconsin	Wisconsin Commission
Public Service Commission of Missouri	Missouri Commission
Public Utility Commission of Texas	Texas Commission
Qwest Services Corporation	Qwest
SBC Communications, Inc.	Legacy SBC
Sprint Corporation	Sprint
State of Texas, Office of Attorney General	Texas AG
Time Warner Telecom	Time Warner Telecom
Touch America Holdings, Inc., <i>et al.</i>	Touch America
United States Telecom Association	USTA
Western Wireless Corp.	Western Wireless
Verizon	Verizon
Washington Utilities and Transportation Commission	Washington Commission
WorldCom	WorldCom
Wyoming Public Service Commission	Wyoming Commission

**Comments to Further Notice of Proposed Rulemaking
in WC Docket No. 02-112**

Commenter	Abbreviation
Ad Hoc Telecommunications Users Committee	Ad Hoc
Americatel Corporation	Americatel
AT&T Corp.	Legacy AT&T
AT&T Wireless Services, Inc.	AT&T Wireless
BellSouth Corporation	Legacy BellSouth

Coalition of Incumbent Independent Local Exchange Carriers	Coalition of Independent ILECS
Independent Telephone & Telecommunications Alliance	ITTA
BT Americas Inc.	BT Americas
California Public Utilities Commission	California Commission
GVNW Consulting, Inc.	GVNW
MCI	Legacy MCI
National Telecommunications Cooperative Association	NTCA
New Jersey Division of the Ratepayer Advocate	NJ Ratepayer
Public Utility Commission of Texas	Texas Commission
Qwest Services Corporation	Qwest
Sage Telecom Inc.	Sage
SBC Communications, Inc.	Legacy SBC
Sprint Corporation	Sprint
State of Texas, Office of Attorney General	Texas AG
United States Telecom Association	USTA
VarTec Telecom, Inc., Excel Telecommunications, Inc., & eMeritus Communications	VarTec <i>et al.</i>
Verizon	Verizon
Working Assets Long Distance	Working Assets
WorldCom	WorldCom
Z-Tel Communications, Inc.	Z-Tel

**Reply Comments to Notice of Proposed Rulemaking
in WC Docket No. 02-112**

Reply Commenter	Abbreviation
AT&T Corp.	Legacy AT&T
BellSouth Corporation	Legacy BellSouth
Covad Communications	Covad
NASUCA	NASUCA
New Jersey Division of the Ratepayer Advocate	NJ Ratepayer
Nextel Communications, Inc.	Nextel
SBC Communications Inc.	Legacy SBC
Sprint Corporation	Sprint
United States Telecom Association	USTA
Verizon	Verizon
WorldCom	WorldCom

**Reply Comments to Further Notice of Proposed Rulemaking
in WC Docket No. 02-112**

Reply Commenter	Abbreviation
Association for Local Telecommunications Services	ALTS
AT&T Corp.	Legacy AT&T
BellSouth Corporation	Legacy BellSouth
Coalition of Incumbent Independent Local Exchange Carriers	Coalition of Independent ILECS
General Communication, Inc.	General Communication
MCI	Legacy MCI
New Jersey Division of the Ratepayer Advocate	NJ Ratepayer
SBC Communications Inc.	Legacy SBC
Sprint Corporation	Sprint
Time Warner Telecom	Time Warner Telecom
United States Telecom Association	USTA
Verizon	Verizon

Comments to AT&T Petition for Forbearance

In WC Docket No. 06-120

Commenter	Abbreviation
ACS of Anchorage, Inc.	ACS
COMPTEL	COMPTEL
General Communication, Inc.	GCI
McLeodUSA Telecommunications Services, Inc.	McLeod
Sprint Nextel Corporation	Sprint Nextel
NASUCA	NASUCA
Verizon	Verizon

Reply Comments to AT&T Petition for Forbearance

In WC Docket No. 06-120

Commenter	Abbreviation
ACS of Anchorage, Inc.	ACS
AdHoc Telecommunications Users Committee	AdHoc
AT&T Inc.	AT&T
COMPTEL	COMPTEL
General Communications, Inc.	GCI
The National Association of State Utility Consumer Advocates	NASUCA
Verizon	Verizon

APPENDIX B

MASS MARKET DATA

Appendix B - Table 1 AT&T's Market Share for Mass Market Customers within its Franchise Area (December 2006)			
	Long Distance Services*	Wireline and Wireless Long Distance Usage**	Local and Long Distance Bundle***
Alabama	REDACTED	REDACTED	REDACTED
Arkansas			
California			
Connecticut			
Florida			
Georgia			
Illinois			
Indiana			
Kansas			
Kentucky			
Louisiana			
Michigan			
Missouri			
Mississippi			
North Carolina			
Nevada			
Ohio			
Oklahoma			
South Carolina			
Tennessee			
Texas			
Wisconsin			
Minimum			
Maximum			
Median			
Source: *Refer to Note 1. **Refer to Note 2. ***Refer to Note 3.			

Note 1 (Interstate Long Distance Services). For each AT&T franchise area, we estimate AT&T's market share for interstate long distance services as follows:

$$MS_{AT\&T} = Local_{AT\&T} / (AT\&T_{PIC} + COMP)$$

Where $MS_{AT\&T}$ = AT&T's market share
 $Local_{AT\&T}$ = The total number of local service lines with a AT&T PIC.³⁷⁵
 $AT\&T_{PIC}$ = The total number of AT&T local service lines with a PIC.³⁷⁶
 $COMP$ = The total number of competitive local service lines.³⁷⁷

Note 2 (Wireline and Wireless Interstate Long Distance Usage). We attempt to account for wireline-wireless usage substitution by including, in our market share calculations, estimates of the number of residential mobile wireless customers that have not cut-the-cord.³⁷⁸ We follow four steps for each AT&T franchise area.

Step 1. We estimate the total number of customers that have telephone service (whether wireline or mobile wireless) and the number of customers that exclusively subscribe to mobile wireless service (*i.e.*, customers that have cut-the-cord). To do this we assume 10 percent of households have cut-the-cord³⁷⁹ and that the typical wireline household has one wireline phone.³⁸⁰

$$(AT\&T + COMP) = 0.90 * C_{\text{telephone}}$$

³⁷⁵ Primary Interexchange Carrier (PIC) information for legacy AT&T lines and legacy SBC lines is reported in Exh. 1.a.i. PIC information for legacy BellSouth lines is reported in Exh. 1.a.ii, and PIC information for AT&T legacy lines within legacy BellSouth's region is reported in Exh. 2. Exhibit 2 reports statewide data and may overstate AT&T legacy PIC counts in the BOC's franchise areas. (AT&T Apr. 23, 2007 *Ex Parte* Letter, Exhs. 1a.i, 1a.ii, 2).

³⁷⁶ *Id.*

³⁷⁷ We estimate competitive lines by summing the number of AT&T's resold residential lines, AT&T's local wholesale complete (UNE-P) lines, and AT&T's estimate of facilities-based lines. See AT&T Apr. 23, 2007 *Ex Parte* Letter, Exh. 1.b, 1.d, 1.f. Consistent with Commission precedent, we assume all competitive local service customers have a PIC. See, e.g., *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5225, para. 33, n.99 (2007). This may result in a slight underestimate of AT&T's market share for interstate residential long distance service.

³⁷⁸ We exclude wireless customers who have cut-the-cord because they cannot engage in usage substitution. We reject AT&T's estimates of the number of residential mobile wireless subscribers that have cut-the-cord because that estimate is for the state as a whole, and assumes a [REDACTED] percent penetration among residential consumers. The source document AT&T cites suggests a 61 percent penetration rate among residential consumers for 2006. AT&T Apr. 23, 2007 *Ex Parte* Letter, Exh. 1.h, note 1 and IDC Attachment, pp. 8-9.

³⁷⁹ *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5225-26, para. 34, n.101. We note that AT&T's analysis assumes [REDACTED] percent of residential consumers have cut-the-cord. AT&T Apr. 23, 2007 *Ex Parte* Letter, Exh. 1.h, note 2.

³⁸⁰ In December 2005, there were 95.6 million primary residential lines and 12.1 non-primary residential lines nationwide. See Trends in Telephone Service, Table 4, available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-270407A1.pdf. This suggests that 89 percent of households with wireline service have a single wireline phone.

Where $C_{\text{telephone}}$ = The total number of customers that have telephone service (whether wireline or mobile wireless).
 AT&T = The total number of AT&T local service customers.³⁸¹
 COMP = The total number of competitive local service customers.³⁸²

Rearranging the expression yields,

$$C_{\text{telephone}} = (AT\&T + COMP)/0.90$$

We estimate, $Wireless_{CTC}$, the total number of customers that have cut-the-cord, by

$$Wireless_{CTC} = C_{\text{telephone}} - AT\&T - COMP$$

Step 2. We estimate the total number of mobile wireless customers by assuming that the percentage of households that subscribe to mobile wireless services is 70 percent.³⁸³

$$Wireless = 0.70 * C_{\text{telephone}}$$

Where $Wireless_{C_{\text{telephone}}}$ = The total number of mobile wireless customers.
 $C_{\text{telephone}}$ = The total number of customers that have telephone service (whether wireline or mobile wireless) (as derived in Step 1).

Step 3. We estimate the total number of residential mobile wireless customers that have not cut-the-cord, (i.e., consumers that subscribe to both mobile wireless service and wireline service).

$$Wireless_{\text{Not-CTC}} = Wireless - Wireless_{CTC}$$

Where $Wireless$ = The total number of mobile wireless customers (as derived above in Step 2).
 $Wireless_{CTC}$ = The number of customers that have cut-the-cord (as derived above in Step 1).

Step 4. Finally, we amend the market share formula in Note 1 above by adding to the numerator AT&T wireless customers that have not cut-the-cord and by adding to the denominator Wireless service customers that have not cut-the-cord.

$$MS_{AT\&T} = \frac{[Local_{AT\&T} + AT\&TWireless_{\text{Not-CTC}}]}{[AT\&T_{PIC} + COMP + Wireless_{\text{Not-CTC}}]}$$

Where $AT\&TWireless_{\text{Not-CTC}}$ = AT&T Wireless customers that have not cut-the-cord³⁸⁴

³⁸¹ AT&T April 23, 2007 *Ex Parte* Letter, Exhs. 1.a., 1.d, 1.f.

³⁸² See *supra* n.377.

³⁸³ AT&T Apr. 24, 2007 *Ex Parte* Letter at 2, Attach. at 4, citing a Yankee Group Report, "Pervasive Substitution Precedes Displacement and Fixed-Mobile Convergence in Latest Wireless Trends."

³⁸⁴ We use the National Resource Utilization and Forecast (NRUF) database to estimate AT&T's share of mobile wireless numbers. See Section 272(f)(1) *Sunset of the BOC Separate Affiliate and Related Requirements; Information Derived from Numbering Resource Utilization and Forecast Report Data Placed Into the Record, Subject to Protective Order*, WC Docket No. 02-112, Public Notice, DA 07-3727 (WCB rel. Aug. 24, 2007) (*NRUF Public Notice*); Letter from Brian Fontes, Vice President, Federal Regulatory, AT&T, to Marlene H. Dortch, (continued....)

Wireless_{Not-CTC} = Wireless subscribers that have not cut-the-cord (as derived in Step 3).

Note 3 (Local and Long Distance Bundle). For each AT&T franchise area, we calculate AT&T's share of the local and long distance service bundle by focusing on residential wireline customers that purchase a local and long distance service bundle from a single wireline provider and residential mobile wireless customers that have cut-the-cord.

$$MS_{AT\&T} = [AT\&T_{PIC} + AT\&TWireless_{CTC}] / [AT\&T_{AT\&T} + COMP + Wireless_{CTC}]$$

Where $AT\&T_{AT\&T}$ = The total number of AT&T local service customers with a AT&T PIC.³⁸⁵
 $AT\&TWireless_{CTC}$ = AT&T Wireless customers that have cut-the-cord.³⁸⁶
 $Wireless_{CTC}$ = Wireless customers that have cut-the-cord (as derived in Note 2, Step 1).

(Continued from previous page) _____

Secretary, FCC, WC Docket No. 02-112 at 1 (filed May 9, 2007) (AT&T May 9, 2007 *Ex Parte* Letter) (consenting to the inclusion of confidential NRUF data in the record in this proceeding). We estimate the number of AT&T mobile wireless customers that *have not* cut-the-cord by multiplying AT&T's share of mobile wireless numbers by the total number of mobile wireless service customers that have not cut-the-cord.

³⁸⁵ See *supra* n.375. We include only those AT&T long distance customers that subscribe to an AT&T local service offering.

³⁸⁶ We estimate the number of AT&T mobile wireless customers that have cut-the-cord by multiplying AT&T's share of mobile wireless numbers, as derived from the NRUF database, by the total number of mobile wireless customers that have cut-the-cord.

Appendix B - Table 2 Verizon's Market Share for Mass Market Customers within its Franchise Area (December 2006)			
	Long Distance Services*	Wireline and Wireless Long Distance Usage**	Local and Long Distance Bundle***
Arizona	REDACTED	REDACTED	REDACTED
California			
Connecticut			
District of Columbia			
Delaware			
Florida			
Idaho			
Illinois			
Indiana			
Massachusetts			
Maryland			
Maine			
Michigan			
North Carolina			
New Hampshire			
New Jersey			
Nevada			
New York			
Ohio			
Oregon			
Pennsylvania/BA			
Pennsylvania/GTE			
Rhode Island			
South Carolina			
Texas			
Virginia/BA			
Virginia/GTE			
Vermont			
Washington			
Wisconsin			
West Virginia			
Minimum			
Maximum			
Median			
Source: *Refer to Note 4. **Refer to Note 5. ***Refer to Note 6.			

Note 4 (Interstate Long Distance Services). For each Verizon franchise area, we estimate Verizon's market share for interstate long distance services as follows

$$MS_{VZ} = Local_{VZ} / (Verizon_{PIC} + COMP)$$

Where MS_{VZ} = Verizon's market share
 $Local_{VZ}$ = The total number of local service customers with a Verizon PIC.³⁸⁷
 $Verizon_{PIC}$ = The total number of Verizon local service customers with a PIC.³⁸⁸
 $COMP$ = The total number of competitive local service lines.³⁸⁹

Note 5 (Wireline and Wireless Long Distance Usage). We take into account wireline-wireless usage substitution, and amend our estimates of Verizon's market share of long distance service by including estimates of the number of residential mobile wireless consumers that have not cut-the cord. For each Verizon franchise area, we apply the four-step procedure we described in Note 2 above with respect to AT&T. Similarly, we modify our calculation of Verizon's market share for long distance services by amending the numerator to include Verizon's wireless customers that have not cut-the-cord and by amending the denominator to include all mobile wireless service customers that have not cut-the-cord.³⁹⁰

³⁸⁷ Verizon Mar. 27, 2007 *Ex Parte* Letter, Exhs. 1.A.1, 1.A.2; Verizon Apr. 3, 2007 *Ex Parte* Letter, Exh. 1.A.1.b., 1.A.2.a; Verizon Apr. 13, 2007 *Ex Parte* Letter, Exh. 2 Supplement, Exh. 2B. Verizon provides PIC information for legacy MCI residential local lines on a state-wide basis. For each Verizon franchise area, we estimate the number of legacy MCI residential local lines with a legacy MCI PIC in two steps. First, we take the difference between Verizon's residential local lines that include legacy MCI local lines and Verizon's residential local line lines that exclude legacy MCI local lines. See Verizon Mar. 27, 2007 *Ex Parte* Letter, Exh. 1.A.4; Verizon Apr. 3, 2007 *Ex Parte* Letter, Exh. 1.A.1.a. Verizon did not provide a combined count of its Verizon and legacy MCI local lines for its Bell Atlantic and GTE regions of Pennsylvania and Virginia. We estimate the number of combined Verizon/MCI lines for Verizon's Bell Atlantic region in Pennsylvania by multiplying the number of its combined Verizon/MCI lines for Pennsylvania as a whole by (the number of Bell Atlantic local lines in Pennsylvania divided by the total number of Verizon's local lines in Pennsylvania). Likewise, we estimate the number of combined Verizon/MCI lines for Verizon's GTE region in Pennsylvania by multiplying the number of its combined Verizon/MCI lines for Pennsylvania as a whole by (the number of GTE local lines in Pennsylvania divided by the total number of Verizon's local lines in Pennsylvania). We use the same method to estimate Verizon Bell Atlantic and GTE lines in Virginia. Second, we assume [REDACTED] percent of legacy MCI's local lines have a MCI PIC. Verizon Apr. 17, 2007 *Ex Parte* Letter at 2 ("In December 2006, MCI or VZ was the presubscribed long-distance carrier for approximately [REDACTED] percent of residential lines for which the former MCI was the local provider.").

³⁸⁸ See *supra* n. 387 and *Ex Parte* Letters cited therein for sources.

³⁸⁹ See *supra* n. 387 and *Ex Parte* Letters cited therein for sources. We estimate the number of competitive lines by summing the number of Verizon's resold residential lines, the number of Verizon's residential wholesale advantage lines and Verizon's estimate of the number of facilities-based residential lines. Verizon Mar. 27, 2007 *Ex Parte* Letter, Exhs. 1.B, 1.D and 1.F; Verizon Apr. 5, 2007 *Ex Parte* Letter at 2-3, Exh. 1.F.3; Verizon Apr. 13, 2007 *Ex Parte* Letter, Specification 1 Supplement, Exhs. 1.B.1, 1.D.1, 1.F.4. Consistent with Commission precedent, we assume all legacy MCI local service customers and all competitive local service customers have a PIC. (See, e.g., *Qwest Section 272 Sunset Forbearance Order*, 22 FCC Rcd at 5225, para. 33, n.99). This may result in a slight underestimate of Verizon's market share for long distance services.

³⁹⁰ We exclude wireless customers who have cut-the-cord because they cannot engage in usage substitution.

$$MS_{VZ} = [Local_{VZ} + VerizonWireless_{Not-CTC}] / [Verizon_{PIC} + COMP + Wireless_{Not-CTC}]$$

Where $VerizonWireless_{Not-CTC}$ = Verizon Wireless subscribers that have not cut-the-cord.³⁹¹

$Wireless_{Not-CTC}$ = Wireless subscribers that have not cut-the-cord (as derived in Step 3).

Note 6 (Local and Long Distance Bundle). For each Verizon franchise area, we calculate Verizon's market share of the local and long distance service bundle by focusing on residential consumers that purchase a local and long distance service bundle from a single provider and residential mobile wireless consumers that have cut-the-cord. We apply the procedures described in Note 2, Step 1 to the Verizon data to incorporate these mobile wireless consumers that have cut-the-cord into our analysis.

$$MS_{VZ} = [Verizon_{VZ} + VerizonWireless_{CTC}] / [Verizon_{VZ} + COMP + Wireless_{CTC}]$$

Where $Verizon_{VZ}$ = The total number of Verizon local service customers with a Verizon PIC.³⁹²

$VerizonWireless_{CTC}$ = Verizon Wireless customers that have cut-the-cord.³⁹³

$COMP$ = The total number of competitive local service lines.³⁹⁴

$Wireless_{CTC}$ = Wireless customers that have cut-the-cord (as derived in Note 2, Step 1 for the Verizon franchise area).

³⁹¹ We use the NRUF database to estimate Verizon Wireless' share of mobile wireless numbers. See Letter from John T. Scott, III, Vice President & Deputy General Counsel, Regulatory Law, Verizon Wireless, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 02-112 at 1 (filed May 8, 2007) (Verizon May 8, 2007 *Ex Parte* Letter) (consenting to the inclusion of confidential NRUF data in the record in this proceeding). We estimate the number of Verizon Wireless mobile wireless customers that have *not* cut-the-cord by multiplying Verizon Wireless' share of mobile wireless numbers by the total number of mobile wireless service customers that have not cut-the-cord (as derived in Step 3).

³⁹² See *supra* n.387. We include only those Verizon long distance customers that subscribe to a Verizon local service offering.

³⁹³ We use the NRUF database to estimate Verizon Wireless's share of mobile wireless numbers. See *NRUF Public Notice*. We multiply this share by the estimate of the total number of mobile wireless customers that have cut-the-cord described in Note 2, Step 1.

³⁹⁴ See *supra* n.389.

APPENDIX C

ENTERPRISE MARKET DATA

Appendix C - Table 1			
AT&T Market Share - Large Enterprise Customers (2006)			
Long Distance Services			
State	Market Share	HHI	Rivals
Alabama	REDACTED	REDACTED	REDACTED
Arkansas			
California			
Connecticut			
Florida			
Georgia			
Illinois			
Indiana			
Kansas			
Kentucky			
Louisiana			
Michigan			
Missouri			
Mississippi			
Nevada			
North Carolina			
Ohio			
Oklahoma			
South Carolina			
Tennessee			
Texas			
Wisconsin			
Minimum			
Maximum			
Median			

Appendix C - Table 1			
AT&T Market Share - Large Enterprise Customers (2006) - Continued			
T-1 Services			
State	Market Share	HHI	Rivals
Alabama	REDACTED	REDACTED	REDACTED
Arkansas			
California			
Connecticut			
Florida			
Georgia			
Illinois			
Indiana			
Kansas			
Kentucky			
Louisiana			
Michigan			
Missouri			
Mississippi			
Nevada			
North Carolina			
Ohio			
Oklahoma			
South Carolina			
Tennessee			
Texas			
Wisconsin			
Minimum			
Maximum			
Median			